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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/753,228	12/28/2000	Jonathan M. Zwieig	3239P063	9333
8791	7590	03/09/2006	EXAMINER	
BLAKELY SOKOLOFF TAYLOR & ZAFMAN 12400 WILSHIRE BOULEVARD SEVENTH FLOOR LOS ANGELES, CA 90025-1030			NGUYEN, TU X	
		ART UNIT	PAPER NUMBER	
		2684		

DATE MAILED: 03/09/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	09/753,228	ZWEIG, JONATHAN M.
	Examiner Tu X Nguyen	Art Unit 2684

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 15 July 2004.

2a) This action is FINAL.                    2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 6-12 and 17-29 is/are pending in the application.

4a) Of the above claim(s) 1-5 and 13-16 is/are withdrawn from consideration.

5) Claim(s) \_\_\_\_\_ is/are allowed.

6) Claim(s) 6-12 and 17-29 is/are rejected.

7) Claim(s) \_\_\_\_\_ is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All    b) Some \* c) None of:

1. Certified copies of the priority documents have been received.
2. Certified copies of the priority documents have been received in Application No. 60/226,342.
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date. _____
3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
	6) <input type="checkbox"/> Other: _____

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 112***

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Regarding claim 8, the third level of effective isotropic radiated power is less than the first level, contradicts with dependent claim 7 such as a third level radiated power is increased from a first power level.

### ***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371(c) of this title before the invention thereof by the applicant for patent.

3. Claims 6-7, 9-11, 20-23 and 25-28, are rejected under 35 U.S.C. 102(e) as being anticipated by Moon et al. (US Patent 6,671,266).

Regarding claims 6, 20 and 25, Moon et al. disclose method comprising:

transmitting a signal having a first level of effective isotropic radiated power by a first wireless electronic device (see 61, fig. 6);

reducing a level of effective isotropic radiated power to a second level of effective isotropic radiated power if a response to the signal is received by the first wireless electronic device within a predetermined period of time (see col.11 lines 41-44).

Regarding claims 7, 21, Moon et al. disclose increasing a level of effective isotropic radiated power to a third level of effective isotropic radiated power if no response to the signal is received by the first wireless electronic device within the predetermined period of time (see col.11 lines 45-49).

Regarding claim 9, Moon et al. disclose the increase of the level of effective isotropic radiated power is performed in accordance with a logarithmic function (see fig.6).

Regarding claim 10, Moon et al. disclose the first wireless electronic device is an access point (see 61, fig.6, "BS" corresponds to "access point").

Regarding claims 11, 23 and 28, Moon et al. disclose increasing a level of effective isotropic radiated power to a third level of effective isotropic radiated power if no response to the signal is received by the first wireless electronic device within the predetermined period of time and after a predetermined number of retries (see 75, 77 fig.7).

Regarding claim 26, Moon et al. disclose decreasing a power level for the second signal to a third power level if a response to the first signal is received by the first wireless electronic device within the predetermined period of time (see col.11 lines 45-49).

Regarding claims 22 and 27, Moon et al. disclose the second power level is greater than the first power level and the first power level is greater than the third power level (see col.11 lines 45-49).

#### ***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill

in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 12, 24 and 29, are rejected under 35 U.S.C. 103(a) as being anticipated by Moon et al. (US Patent 6,671,266).

Regarding claims 12, 24 and 29, Moon et al. fail to disclose a rate of change from the first level of effective isotropic radiated power to the second level of effective isotropic radiated power is greater than a rate of change from the second level of effective isotropic radiated power to the third level of effective isotropic radiated power. The Examiner takes an Official notice that the concept a rate of change power is well known in the art. It would have been obvious a transmission power level is adjusted at different offset values.

6. Claims 17-19, are rejected under 35 U.S.C. 102(e) as being anticipated by Moon et al. (US Patent 6,671,266) further in view of Thomson et al. (US Patent 6,304,760).

Regarding claims 17-19, Moon et al. fail to disclose the response to the signal is a beacon from a second wireless electronic device.

Thomson et al. disclose the response to the signal is a beacon from a second wireless electronic device (see col.5 lines 46-50). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the system of Moon et al. with the above teaching of Thomson et al. in order to avoid interference.

### Conclusion

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed Tu Nguyen whose telephone number is 571-272-7883. The examiner can normally be reached on Monday through Friday from 6:30AM-2:30PM.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Edward Urban, can be reached at (571) 272-7899. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



February 27, 2006



EDWARD F. URBAN  
EXAMINER  
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